

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
MONDAY, OCTOBER 18, 1999**

1

Crim. THE PEOPLE  
No. v.  
C030616 DAVID WILLIAM BERGEY  
BY THE COURT:

Appellant's petition for rehearing is denied.

Dated: October 18, 1999

SIMS, Acting P.J.

At 9:31 a.m., the court met in the Library & Courts Building to begin its court calendar session.

PRESENT: BLEASE, Acting Presiding Justice  
RAYE, Associate Justice  
CALLAHAN, Associate Justice

Bailiff: Rios  
Calendar called.

Civil JIJIBHOY PATEL et al  
No. v.  
C029250 JOHN BLOMBERG et al.

Cause called. Leonard J. Martinet, of Williams & Martinet argued for Plaintiff-Appellants. Dana A. Suntag, of Shaver, Suntag & Feuerstein argued for Defendant-Respondent Larry Gray et al. John Blomberg, of Blomberg & Griffin appeared for Defendant-Respondent John Blomberg but did not argue. Cause submitted.

Crim. THE PEOPLE  
No. v.  
C028958 GREGORY ADONIS MURPHY

Cause called. Geri Lynn Green, court appointed counsel argued for Defendant-Appellant. Julie A. Hokans, Deputy Attorney General argued for Plaintiff-Respondent.

At 9:56 a.m., court recessed. At 9:59 a.m., court reconvened with the same panel except Associate Justice Sims in place of Associate Justice Callahan.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
MONDAY, OCTOBER 18, 1999 CONTINUED**

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Civil           JEANNE HESS et al.  
No.             v.  
C028583       AMCO INSURANCE COMPANT et al.

Cause called. Jon S. Allin, of Wagstaffe, Schwarzkopf & Allin argued for Plaintiffs-Appellants. Melissa Blair Allioti, of Read & Aliotti argued for Defendants-Respondents. Cause submitted.

At 10:35 a.m., court recessed. At 10:40 a.m., court reconvened with the same panel except Associate Justice Callahan in place of Associate Justice Raye.

Civil           JULIE ANN MOULLET  
No.             v.  
C028742       KAMPS PROPANE INC.

Cause called. Larry Beach Becker appeared for Plaintiff-Appellant but did not argue. Marc S. Janowitz argued for Plaintiff-Appellant. Robert A. Roth argued for Defendant-Respondent. Cause submitted.

At 11:10 a.m., court recessed. At 11:12 a.m., court reconvened with Acting Presiding Justice Sims, Associate Justice Callahan and Associate Justice Hull.

Civil           UNION SAFE DEPOSIT BANK  
No.             v.  
C027158       ALVIE R. FLOYD

Cause called. James S. Monroe, of Lillick & Charles argued for Defendant-Appellant with additional citations. Kevin M. Seibert, Steinheimer , Riggio, Haydel & Mordaunt appeared for Plaintiff-Respondent. Robert J. Stumpf, Jr., of Sheppard, Mullin, Richeter & Hampton argued for Plaintiff-Respondent. Cause submitted.

**MINUTES OF THE COURT OF APPEAL**  
**STATE OF CALIFORNIA**  
**THIRD APPELLATE DISTRICT**  
**MONDAY, OCTOBER 18, 1999 CONTINUED**

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At 11:40 a.m., court recessed. At 2:05 p.m., court reconvened with the same panel except Associate Justice Kolkey in place of Associate Justice Hull.

Civil           FNB MORTGAGE CORP. et al.  
No.            v.  
C030439       PACIFIC GENERAL GROUP

Susan D. Hyman, of Senn Palumbo, Meulemans argued for X-Complainants-Appellants. Mark T. Guerra argued for X-Defendant\_Respondent.

At 2:37 p.m., court recessed until 9:30 a.m., Tuesday, October 19, 1999.

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Juvenile       In re TAUSHA R. et al., Persons Coming Under the Juvenile Court Law.  
                  (Not for Publication)  
No.            SAN JOAQUIN COUNTY HUMAN SERVICES AGENCY  
C029282       v.  
                  BRIAN R.

The order is affirmed.

KOLKEY, J.

We concur:       SCOTLAND, P.J.  
                  HULL, J.

Juvenile       In re RAMON R., a Person Coming Under the Juvenile Court Law.  
No.            THE PEOPLE                               (Not for Publication)  
C029675       v.  
                  RAMON R.

The judgment is affirmed.

KOLKEY, J.

We concur:       SIMS, Acting P.J.  
                  HULL, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
TUESDAY, OCTOBER 19, 1999**

4

At 9:30 a.m., the court met in the Library & Courts Building for a continuation of court calendar session.

PRESENT:           BLEASE, Acting Presiding Justice  
                  RAYE, Associate Justice  
                  MORRISON, Associate Justice

Bailiff: Rios.  
Calendar called.

Crim.           THE PEOPLE  
No.             v.  
C029873       FRANK WILLIAM RAVISCIONI

Cause called. George P. Eshoo argued for Defendant-Appellant. No appearance was made on behalf on Plaintiff-Respondent as argued having been previously waived and approved. Cause submitted.

At 9:38 a.m., court recessed. At 9:39 court reconvened with the same panel except Associate Justice Davis in place of Associate Justice Raye.

Civil           ASSURNCE COMPANY OF AMERICA  
No.             v.  
C029148       RONADL R. HAVEN et al.

Cause called. James C. Nielsen, of Wright, Robinson, Osthimer & Tatum argued for Plaintiff-Appellant-X-Respondent. Michael K. Johnson, of Lewis, D'Amato, Brisbois & Bisgaard argued for Defendants-Respondents-X-Appellants. Cause submitted.

At 10:13 a.m., court recessed. At 10:16 a.m., court reconvened with the same panel except Associate Justice Kolkey in place of Associate Justice Morrison.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
TUESDAY, OCTOBER 19, 1999 CONTINUED**

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Civil           LEON AARON DRISS  
No.            v.  
C031528       THE SUPERIOR COURT OF SACRAMENTO COUNTY  
                 MEDICAL BOARD OF CALIFORNIA

Henry R. Fenton argued for Petitioner. Richard D. Marino, Deputy Attorney General argued for Real party in interest. Cause submitted.

At 10:44 a.m., court recessed. At 10:50 a.m., court reconvened with the same panel except Presiding Justice Scotland in place of Associate Justice Davis.

Civil           SACRAMENTO BREWING CO., INC.  
No.            v.  
C029428       DESMOND, MILLER & DESMOND et al.

Cause called. Mark C. Leas argued for Plaintiff-Appellant. Steven A. Lewis of Lewis & Bacon argued for Defendants-Respondents. Cause submitted.

Civil           MELVIN E. OLIVER et al.  
No.            v.  
C029233       A T & T WIRELESS SERVICES et al.

Cause called. James P. McKenna, of Peters, Rush, Habib & McKenna argued for Plaintiffs-Appellants. Kevin R. Iams, of Watson, Khachadourian Re & Iams argued for Defendants-Respondents. Cause submitted.

At 11:37 a.m., court recessed. At 2:01 p.m., court reconvened with the same panel except Associate Justice Davis in place of Associate Justice Blease.

Civil           MARCIE SANCHEZ, a Minor, etc.  
No.            v.  
C030455       CSK AUTO, INC.

Cause called. Richard P. Bertolino, of Sacino, Bertolino & Hallissy argued for Plaintiff-Appellant. Elisa Ungerman, of Porter, Scott, Weiberg & Delehant argued for Defendant-Respondent. Cause submitted.

**MINUTES OF THE COURT OF APPEAL**  
**STATE OF CALIFORNIA**  
**THIRD APPELLATE DISTRICT**  
**TUESDAY, OCTOBER 19, 1999 CONTINUED**

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At 2:26 p.m., court recessed. At 2:29 p.m., court reconvened with Acting Presiding Justice Davis, Associate Justice RAYE, AND Associate Justice Morrison.

Civil           JAROSLAW WASZCZUK  
No.             v.  
C030005       DESTEC ENERGY, INC.

Cause called. Jaroslaw Waszczuk argued for Himself in Pro Per as Plaintiff- Appellant. R. Brian Dixon argued for Defendant-Respondent. C. Robert Sturm appeared for Defendant-Respondent but did not argue. Cause submitted.

Civil           THE PEOPLE  
No.             v.  
C027464       TIMOTHY DARRELL COON

Cause called. Scott A. Sugarman, of Sugarman & Cannon argued for Defendant-Appellant. Bret H. Morgan, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted.

At 3:28 a.m., court recessed. At 3:32 p.m., court reconvened with the same panel except Associate Justice Blease in place of Associate Justice Raye.

Crim.          THE PEOPLE  
No.             v.  
C029295       MICHAEL SURGEON

Cause called. Steven Schorr, court appointed counsel argued for Defendant-Appellant. Tim L. Rieger, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted.

At 3:51 p.m., court recessed. At 3:52 p.m., court reconvened with the same panel except Associate Justice Raye in place of Associate Justice Morrison.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
TUESDAY, OCTOBER 19, 1999 CONTINUED**

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Civil           RENEE S.  
No.            v.  
C033472      THE SUPERIOR COUNTY OF SACRAMENTO  
              DEPARTMENT OF HEALTH AND HUMAN SERVICES  
              Cause called. No appearance was made on behalf of Petitioner.  
              Kathryn A. Shurtleff, Deputy County Counsel argued for Real party in  
              interest. Cause submitted.

Court recessed at 4:07 p.m., until 9:30 a.m., Wednesday, October 20, 1999

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Civil           WARREN CHOW  
No.            v.  
C031865      PRUDENTIAL CALIFORNIAIA REALTY et al.  
              NORCAL REALTY PARTNERS ETC., et al.

Civil           WARREN CHOW  
No.            v.  
C033257      NORCAL REALTY PARTNERS ETC., et al.  
              BY THE COURT:

The motion of appellant for consolidation of the above cases is granted. The cases are ordered consolidated for all further appellate procedures except that they will retain their respective case numbers. Whenever documents are submitted for filing by the parties, an original must be presented for each case number; however, if copies of documents are required pursuant to the California Rules of Court, the parties need only submit a maximum of four. The case will be considered for decision together.

Appellants' appendix and opening brief of Norcal Realty Partners, etc. et al., in case number C033257 is due on or before December 1, 1999.

Respondents' briefs are due 30 days thereafter.  
Dated:           October 19, 1999

SCOTLAND, P.J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
WEDNESDAY, OCTOBER 20, 1999**

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At 9:30 a.m., the court met in the Library & Courts Building for a continuation of court calendar session.

PRESENT: SCOTLAND, Presiding Justice  
MORRISON, Associate Justice  
CALLAHAN, Associate Justice

Bailiff: Rios.  
Calendar called.

Civil No. C030380 CHRISTOPHER VILLANUEVA, a Minor, etc.  
v.  
DEPARTMENT OF TRANSPORTATION  
Cause called. Randal M. Barnum argued Plaintiff-Appellant.  
Kenneth Nellis argued for Defendant-Respondent. Cause submitted.

At 9:59 a.m., court recessed. At 10:01 a.m., court reconvened with the same panel except Associate Justice Blease in place of Associate Justice Callahan.

Civil No. C029479 ANTONIO M. LEDOUX, a Minor, etc.  
v.  
WILLIAM DEITRICH  
Cause called. Steven E. Cohen, of Borton Petrini & Conron argued for Plaintiff-Appellant. Daniel P. Costa, of Diepenbrock & Costa argued for Defendant-Respondent. Cause submitted.

Crim. No. C027000 THE PEOPLE  
v.  
JEFFREY MICHAEL NORTON et al.  
Cause called. Reid P. Schantz argued for Plaintiff-Appellant. Harry Joseph Colombo, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted.



**MINUTES OF THE COURT OF APPEAL**  
**STATE OF CALIFORNIA**  
**THIRD APPELLATE DISTRICT**  
WEDNESDAY, OCTOBER 20, 1999 CONTINUED

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At 10:50 a.m., court recessed. At 10:55 a.m., court reconvened with the same panel except Associate Justice Hull in place of Presiding Justice Scotland.

Civil           HARBANS SINGH DHILLON et al.  
No.             v.  
C030143       QUALITY LOAN SERVICE CORPORATION

Cause called. Douglas K. Lackey, of Zimmerman & Kahanowitch argued for Defendant-Appellant-X-Respondent. Cary P. Greisen argued for Plaintiff-Respondents-X-Appellants. Cause submitted.

At 11:14 a.m., court recessed. At 11:15 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Morrison, and Associate Justice Hull.

Crim.           THE PEOPLE  
No.             v.  
C030953       ANTHONY TURNER

Cause called. Court reporter Martha Torres appeared to show cause. The court continued order to show cause to 9:30 a.m., Monday, October 25, 1999 unless reporter transcript's are filed.

At 11:20 a.m., court recessed. At 2:00 p.m., court reconvened with Acting Presiding Justice Sims, Associate Justice Davis, and Associate Justice Raye.

Crim.           THE PEOPLE  
No.             v.  
C029962       JOSEPH ANTHONY MARQUEZ

Cause called. Robert Wayne Gehring, court appointed counsel argued for Defendant-Appellant. Tim L Rieger, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted.

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We concur:           BLEASE, Acting P.J.  
                                  DAVIS, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
WEDNESDAY, OCTOBER 20, 1999 CONTINUED**

11

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C029343 JOHN EDWARD LEHNER

The judgment is affirmed.

RAYE, J.

We concur: SCOTLAND, P.J.  
SIMS, J.

Juvenile In re VANESSA M. et al., Persons Coming Under the Juvenile Court Law.  
(Not for Publication)

No. HUMAN SERVICES AGENCY  
C032804 v.  
LISA C. et al.

The order of the juvenile court terminating the parentyal rights of  
appellants is affirmed.

NICHOLSON, J.

We concur: SCOTLAND, P.J.  
HULL, J.

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C031084 SHAWN H. BUCHER

The judgment is affirmed.

Nicholson, Acting P.J.

We concur: MORRISON, J.  
CALLAHAN, J.

Crim. THE PEOPLE (Certified for Publication)  
No. v.  
C030560 BOBBY MARION DIXON

The judgment is modified to stay the concurrent term imposed on  
count 3 for misdemeanor false imprisonment (§ 236), pursuant to section  
654. In all other respects the judgment is affirmed. The trial court shall  
prepare an amended abstract of judgment, showing the section 654 stay,  
and shall forward a copy of the same to the Department of Corrections.

SIMS, Acting P.J.

We concur: DAVIS, J.  
HULL, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
WEDNESDAY, OCTOBER 20, 1999 CONTINUED**

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Civil           EL DORADO COUNTY TAXPAYERS FOR QUALITY GROWTH  
No.            v.  
C031175       EL DORADO COUNTY BOARD OF SUPERVISORS et al.  
                PALISADES DEVELOPMENT, INC. et al.  
                BY THE COURT:

Pursuant to the joint application and stipulation of counsel for reversal of judgment, the matter is remanded to the superior court with direction to vacate the judgment and dismiss the underlying action with prejudice.

It is further ordered pursuant to stipulation of counsel that the parties are to bear their own costs on appeal, and the remittitur shall issue forthwith.

Dated:           October 20, 1999

DAVIS, Acting P.J.

**THURSDAY, OCTOBER 21, 1999**

At 9:29 a.m., the court met in the Library & Courts Building for a continuation of court calendar session

PRESENT:           BLEASE, Acting Presiding Justice  
                      NICHOLSON, Associate Justice  
                      HULL, Associate Justice

Bailiff: Conrad.  
Calendar called.

Civil           STEPHEN SZATKOWSKI  
No.            v.  
C30682       BAXTER HEALTHCARE CORPORATION

Cause called. Sheila Lamb Carroll, of Sheridan & Carroll argued for Plaintiff-Appellant. Scott M. Hervey, of Sheridan & Carroll argued for Plaintiff-Appellants. Daniel J. McVeigh, of Downey, Brand, Seymour & Rohwer argued for Defendant-Respondent. Tory E. Griffin appeared for Defendant-Respondent but did not argue. Cause submitted.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
THURSDAY, OCTOBER 21, 1999 CONTINUED**

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At 9:51 a.m., court reconvened with the same panel except Associate Justice Raye in place of Associate Justice Hull.

Civil            In re the Marriage of TIMOTHY SHEAFFER AND JANINE MOLGAARD  
No.            JANINE MOLGAARD et al.  
C029890      v.  
                 TIMOTHY SHEAFFER

Cause called. Tim A. Sheaffer argued for appellant. Janine Molgaard argued for Respondent Janine Molgaard. Laura E. Bainbridge argued for Respondent Alistair Sheaffer. Cause submitted

Civil            In re the Marriage of TIMOTHY SHEAFFER AND JANINE MOLGAARD  
No.            JANINE MOLGAARD et al.  
C030398      v.  
                 TIMOTHY SHEAFFER

Cause called. Tim A. Sheaffer argued for appellant. Janine Molgaard argued for Respondent Janine Molgaard. Laura E. Bainbridge argued for Respondent Alistair Sheaffer. Cause submitted

Crim.           THE PEOPLE  
No.            v.  
C030064      TIMOTHY MARTIN et al.

Cause called. Matt Wilson, court appointed counsel argued for Defendant-Appellant Ara Ward. Joan Isserlis, court appointed counsel for Defendant-Appellant Timothy Martin. No appearance was made on behalf as argued having been previously waived and approved. Cause submitted.

Court recessed at 10:29 a.m., until 9:30 a.m., Friday, October 22, 1999

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**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
THURSDAY, OCTOBER 21, 1999 CONTINUED**

14

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C028959 LONE LUANGRATH

The judgment is reversed with instructions to vacate the defendant's no contest plea and the underlying plea bargain, as well as the finding that the prior juvenile adjudication could be used as a strike under the Three Strikes Law.

NICHOLSON, J.

I concur: RAYE, J.  
I dissent from the vacation of the defendant's no contest plea.  
... BLEASE, Acting P.J.

Juvenile In re REBECCA W., a Person Coming Under the Juvenile Court Law.  
(Not for Publication)  
No .SACRAMENTO COUNTY DEPARTMENT OF HEALTH & HUMAN  
SERVICES  
C032784 v.  
LETITIA S.

The orders of juvenile court are affirmed.

KOLKEY, J.

We concur; RAYE, Acting P.J.  
CALLAHAN, J.

Civil KRISTEN McCABE (Certified for Publication)  
No. v.  
C028944 SALLY REED, as Director, etc.  
THE COURT:

It is ordered that the opinion filed herein on September 29, 1999, be modified in the following particulars:

1. ....
2. ....

This modification does not change the judgment.

FOR THE COURT:

SIMS, Acting P.J.  
MORRISON, J.  
HULL, J.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
THURSDAY, OCTOBER 21, 1999 CONTINUED**

15

Juvenile In re SARA C. et al., Persons Coming Under the Juvenile Court law.  
No. SACRAMENTO COUNTY DEPARTMENT OF HEALTH & HUMAN  
SERVICES  
C032166 v. (Not for Publication)  
TONI H. et al.  
The orders of the juvenile court are affirmed.  
KOLKEY, J.  
We concur: RAYE, Acting P.J.  
CALLAHAN, J.

FRIDAY, OCTOBER 22, 1999

Crim. THE PEOPLE  
No. v.  
C029674 KENNETH DEAN MCKAY  
BY THE COURT:  
Appellant's petition for rehearing is denied.  
Dated: October 22, 1999  
SCOTLAND, P.J.

At 9:30 a.m., the court met in the Library & Courts Building for a continuation of court calendar session.

PRESENT: SCOTLAND, Presiding Justice  
NICHOLSON, Associate Justice  
MORRISON, Associate Justice

Civil In re the Marriage of BEVERLY AND JOSEPH VONA  
No. BEVERLY J. VONA  
C029887 v.  
JOSEPH P. VONA, JR.  
Cause called. James D. Stuck argued for Appellant. Dennis M.  
Wilson argued for Respondent. Cause submitted.

Civil In re the Marriage of BEVERLY AND JOSEPH VONA  
No. v.  
C030133 JOSEPH P. VONA, JR.  
Cause called. James D. Stuck argued for Appellant. Dennis M.  
Wilson argued for Respondent. Cause submitted.

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
FRIDAY, OCTOBER 22, 1999 CONTINUED**

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Civil           EPISUREAN ESTHETICS, INC.  
No.             v.  
C030514       JAN HARTFORD

Cause called. Joseph A. Hearst argued for Defendant-Appellant. Raymond L. Sandelman, of Stewart Humpherys, Burchett, Sandelman & Molin argued for Plaintiff-Respondent. Cause submitted.

At 10:19 a.m., court recessed. At 10:22 a.m., court reconvened with the same panel except Associate Justice Kolkey in place of Associate Justice Morrison.

Crim.           THE PEOPLE  
No.             v.  
C028520       JOHN DAVID HARRELL

Cause called. Madeline McDowell, Central California Appellate Program argued for Defendant-Appellant. Laura I. Heidt, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted.

Civil           RT ENGLISH CONSTRUCTION COMPANY  
No.             v.  
C031260       DEPARTMENT OF INDUSTRIAL RELATIONS etc., et al.

Cause called. Miles E. Locker, Chief Counsel argued for Defendants-Appellants. G. Richard Brown, of McDonough, Holland & Allen argued for Plaintiff-Respondent. Cause submitted.

Court recessed at 11:16 a.m., until 9:30 a.m., Monday, October 25, 1999

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Crim.           THE PEOPLE                               (Not for Publication)  
No.             v.  
C028606       CARLOS FRANK ARIAS

The judgment is affirmed.

Nicholson, J.

We concur:       SIMS, Acting P.J.  
                      MORRISON, J.



**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
FRIDAY, OCTOBER 22, 1999 CONTINUED**

17

Crim. THE PEOPLE (Not for Publication)

No. v.

C029034 KOUA XIONG

The judgment is affirmed.

SCOTLAND, P.J.

We concur: SIMS, J.  
NICHOLSON, J.